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OFFICE OF PETITIONS

In re Application of :
Infantino et al. :
Application No. 10/081,938 : DECISION ON PETITION
Filed: 22 February, 2002 :
Attorney Docket No. HANN-0002 :

This is a decision on the petition filed on 9 November, 2006, under 37 CFR 1.137(b),¹ to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 28 April, 2005, for failure to submit a proper response to the final Office action mailed on 27 January, 2005, which set a three (3) month shortened statutory period for reply. An amendment after final rejection was filed on 28 March, 2005. However, the amendment was determined not to place the application in *prima facie* condition for allowance, and On 14 April, 2005, an Advisory Action was mailed. No extensions of the time for reply were obtained in accordance with 37 CFR

¹ Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

1.136(a). Notice of Abandonment was mailed on 16 November, 2005. The petition to withdraw the holding of abandonment filed on 12 December, 2005, was dismissed on 11 September, 2006.

Petitioners have filed a Request for Continued Examination (RCE) and indicated that the previously filed amendment after final rejection is the required submission.

The application is being referred to Technology Center Art Unit 3761 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



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